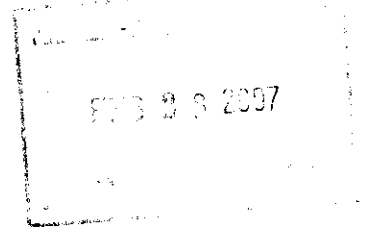


Skogen Educational Services

13792 Olivewood Drive

Baxter, MN 56425

218-829-3718



Federal Communications Commission

Office of the Secretary

445 12th Street S.W.

Washington, DC 20554

Re: Request for Review of a Decision of the Universal Service Administrators by Skogen Educational Services
CC Docket No. 02-6

Billed Entity Name	Pillager School District 116
Billed Entity Number	133957
Funding Year	2006
471 Application Number	520117

After submitting the original Request for Review the secretaries at Pillager Public School found the original "Letter of Agency" that was signed on November 4, 2005. I am forwarding a copy of this letter for use during the review. I am also including a copy of a letter from E-Rate Central commenting on this review.

Thank you for your consideration of these new items.

Dave Skogen

No. of Copies rec'd 0
List ABCDE

Letter of Agency for Funding Year 2005 - 2006

I hereby authorize **Dave Skogen (Skogen Educational Services)** to submit FCC Form 470, FCC Form 471, and other E-rate forms to the Schools and Libraries Division of the Universal Service Administrative Company on behalf of **Pillager School District #116**.

I understand that, in submitting these forms on our behalf, you are making certifications **Pillager School District #116**. By signing this Letter of Agency, I make the following certifications:

- (a) I certify that **Pillager School District #116** are all schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.
- (b) I certify that our **school district**, has/have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that to the extent that the Billed Entity is passing through the non-discounted charges for the services requested under this Letter of Agency, that the entities I represent have secured access to all of the resources to pay the non-discounted charges for eligible services from funds to which access has been secured in the current funding year.
- (c) I certify that our **school, school district** is covered by a technology plan(s) that is written, that covers all 12 months of the funding year, and that has been or will be approved by a state or other authorized body, or an SLD-certified technology plan approver, prior to the commencement of service. The plan(s) is written at the following level(s): X an individual technology plan for using the services requested in this application; and/or X higher-level technology plan(s) for using the services requested in this application; or no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.
- (d) I certify that the services the school, library or district purchases at discounts provided by 47 U.S.C. § 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the rules of the Federal Communications Commission (Commission or FCC) at 47 C.F.R. § 54.500(et seq.).
- (e) I certify that our **school district** has complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
- (f) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.
- (g) I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
- (h) I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) covered by this Letter of Agency. I certify that I am authorized to make this request on behalf of the eligible entity(ies) covered by this Letter of Agency, that I have examined this Letter, that all of the information on this Letter is true and correct to the best of my knowledge, that the entities that will be receiving discounted services under this Letter pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47

U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

- (i) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities, or any person associated in any way with my entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
- (j) I certify, on behalf of the entities covered by this Letter of Agency, that any funding requests for internal connections services, except basic maintenance services, applied for in the resulting FCC Form 471 application are not in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. § 54.506(c).
- (k) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.
- (l) I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information, and belief, all information provided to [name of Consortium] for E-rate submission is true.

Name of Entity Pillager School District #116

Date: 11/04 2004

Title: Superintendent

Signature

Name: Phil Johnson



E-Rate Central

E-Rate Central / CentralEd

625 Locust Street, Suite 1

Garden City, NY 11530

Tel: 516-832-2881 • Fax: 516-832-2877

Winston E. Himsworth

February 17, 2007

Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, DC 20554

Re: Comment on Request for Review of a Decision of the Universal
Service Administrator by Skogen Educational Services,
CC Docket No. 02-6

Billed Entity Name	Pillager School District 116
Billed Entity Number	133957
Funding Year	2006
471 Application Number	520117

Comment

On February 13, 2007, the FCC received a Request for Review dated January 30th filed by Skogen Educational Services on behalf of Pillager School District 116 in Pillager, MN. The request deals with USAC's denial of E-rate funding for Pillager's FY 2006 application for the stated reason that: "Consultant services were rendered prior to the signing of a consulting agreement or a Letter of Agency, authorizing the consultant to act on your behalf." Although this appeal argues that consultant services were in fact authorized, we believe the issue is far broader.

Putting aside the facts of Pillager's relationship with its consultant, USAC's denial in this case appears to be based on a non-existent FCC rule. This seems to be another example of USAC inferring specific FCC requirements based on the "illustrative" examples of record retention documentation that the FCC included in Paragraph 48 of its Fifth Report and Order.

In previous comments submitted to the FCC on January 12, 2007, in support of an appeal and waiver request filed on behalf of Cristo Rey New York High School, E-Rate Central raised the same Paragraph 48 issue — in that case with regard to USAC's "two signatures-two dates" contract requirement. The issue in this case is, if possible, even clearer.

Based on our review of establishing FCC Orders, we believe that the only possible basis for the denial reason in the Pillager case is one sentence in the record retention section (Paragraph 48) of the Fifth Report and Order (FCC 04-190) stating that: "If consultants are involved, beneficiaries must retain signed copies of all written agreements with E-rate consultants."

We note that this description of documents that must be retained is part of a broader list explicitly provided "for illustrative purposes." Nowhere else in the Fifth Order (or in any other

FCC Order) is there an adoption of any rule requiring any form of consultant agreement or LOA to be executed prior to the time a consultant begins work with an applicant. At most, this section of the Fifth Order requires the applicant to retain any consulting agreements — if there are such agreements.

The status of any actual or potential FCC rules regarding applicant use of consultants is most recently found in the FCC's Third Report and Order and Second Further Notice of Proposed Rulemaking (FCC 03-323) released December 23, 2003, that states, in part (Para. 91): "We seek comments on whether applicants should be required to identify any consultants or other outside experts...that aid in the preparation of an the applicant's technology plan or in the applicant's procurement process." The FCC has not yet ruled on whether consultants must be so identified, much less whether signed agreements must be in place before services are rendered.

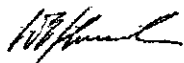
As noted in FCC 03-323, there are a number of issues that must be addressed before any consultant rules are adopted for E-rate purposes. We are concerned, for example, with the definitions of "services rendered" and "act on your behalf" implicit in the USAC denial reason that might unduly restrict:

1. State E-rate coordinators providing advice to, or otherwise acting on behalf of, any applicants within their states;
2. Normal marketing efforts of consultants to begin providing services for applicants in immediate need of assistance to meet E-rate deadlines before more formal contracts can be executed; or even
3. Pro bono E-rate assistance provided applicants as was the case in Louisiana and Mississippi in the aftermath of Hurricane Katrina.

In the absence of more explicit rules, E-Rate Central agrees that USAC has a procedural right, prior to accepting information or requests from consultants on any applicants' behalf, to require consultants to document that they are authorized to do so.¹ But this is a far cry from USAC's establishment of a requirement that consultants have contracts or letters of agency in place before any service are provided.

If, as we believe it should, the Commission grants the Pillage appeal, we encourage the Commission to clearly affirm that Paragraph 48 pertains only to the FCC's record retention rules and that, unless otherwise required by FCC rules, the list of documents and the specific form of those documents included in Paragraph 48 are indeed "for illustrative purposes" only.

Sincerely,



Winston E. Himsworth

¹ Such authorization might be in the form of an explicit Letter of Agency or, more implicitly, in consultant's designation as the contact in an FCC form signed by the applicant.

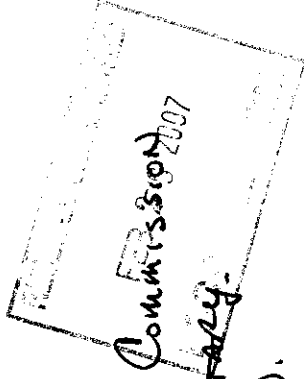
SKOLAN ED. SERVICES
13792 OLIVERWOOD DRIVE
BAYTER, MN 52425

SAINT CLOUD MN 563

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
445 12TH STREET S.W.
WASHINGTON, D.C. 20534

20534+0000

